



Applicant: **Alexander C. Pummer and John E. Powers**
Title: **TELECOMMUNICATION SYSTEMS FOR PROVIDING
CELLULAR SERVICE TO RF SHADOWS**
Serial No.: **10/736,483**
Filed: **Decemeber 11, 2003**
Art Unit: **2681**
Examiner: **John J. Lee**
Agent's File Reference: **0317-01**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RENEWED PETITION UNDER 37 C.F.R. § 1.137(b)

Mail Stop PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313

Sir:

This RENEWED PETITION is filed in response to the DECISION ON PETITION dated January 22, 2009, in the subject application. The DECISION ON PETITION dismissed the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b) filed on October 15, 2008.

The A PETITION OF EXTENSION OF TIME under 37 C.F.R. § 1.136(a) is filed herewith, extending the period for responding to the DECISION ON PETITION to June 22, 2009.

Applicant notes that a grantable petition under 37 C.F.R. § 1.137(b) must be accompanied by:

- (1) the required reply;
- (2) the petition fee set forth in 37 C.F.R. § 1.17(m);
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and
- (4) any terminal disclaimer and associated fee, if required.

The DECISION ON PETITION states that the PETITION of October 15, 2008, lacked item (3) above. Applicant respectfully submits that the entire delay was unintentional.

The DECISION ON PETITION further states that there are three periods to consider during the evaluation of a petition under 37 C.F.R. § 1.137(b):

- (1) the delay in reply that originally resulted in the abandonment;
- (2) the delay in filing an initial petition pursuant to 37 C.F.R. § 1.137(b) to revive the application; and
- (3) the delay in filing a grantable petition pursuant to 37 C.F.R. § 1.137(b) to revive the application.

The DECISION ON PETITION states that the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

Period (1)

Provided hereunder is a statement of facts in explaining the delay in the reply that originally resulted in the abandonment.

The undersigned has been the Agent of Record in the application since the time of filing.

The undersigned was a sole practitioner from July 1998 to June 2005, at which time he accepted an in-house corporate position.

The time from June 2005 through April 2006 was a period of transition in which the undersigned was notifying clients of his transition to the in-house corporate position and ceasing his sole practitioner operations.

The undersigned prepared and filed the AMENDMENT AND RESPONSE dated October 19, 2008, for Applicant during this period of transition.

In response to the October 19, 2008, AMENDMENT AND RESPONSE, the Patent Office issued an Office Action on January 13, 2006, which had a three month period of response expiring on April 13, 2006.

The undersigned had the authority to reply to the Office Action on April 14, 2008.

The undersigned leased office space at 17744 Skypark Circle, Suite 295, Irvine, California, the lease for which expired in March 2006.

In the course of ceasing operations during January and February 2006, leading up to March 2006 when the office space needed to be vacated, a number of physical files, Patent Office correspondence, and other papers were inadvertently and unintentionally discarded by the maintenance personnel of the leased office space.

Upon discovering the missing files and correspondence, the undersigned immediately attempted to locate and retrieve the discarded items, to no avail.

As the undersigned has not been able to locate the physical file for the subject application, it is respectfully asserted that the physical file for the subject application was one of the inadvertently and unintentionally discarded files.

As the undersigned had no knowledge of the January 13, 2006, Office Action, it is respectfully asserted that this Office Action was one of the inadvertently and unintentionally discarded Patent Office correspondence.

Applicant contacted the undersigned on or about October 8, 2008, inquiring the status of the application.

In view of the foregoing, the undersigned respectfully submits that the delay on the part of the party having the authority to reply to avoid abandonment was unintentional.

Period (2)

Provided hereunder is a statement of facts in explaining the delay in filing the initial petition pursuant to 37 C.F.R. § 1.137(b) to revive the application.

As mentioned above, Applicant contacted the undersigned on or about October 8, 2008, inquiring the status of the application.

Upon receiving this inquiry, the undersigned access the file wrapper for the subject application on PAIR website, becoming aware of the January 13, 2006, Office Action and the NOTICE OF ABANDONMENT, on or about October 8, 2008.

The PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b) filed one week later on October 15, 2008.

Regarding M.P.E.P § 711.03(c)(11), subsection D, the undersigned provides the following statements.

As to (A) further information as to when the Applicant's representative first became aware of the abandonment of the application:

The undersigned first became aware of the abandonment of the application on or about October 8, 2008, upon receiving an inquiring from Applicant regarding the status of the application.

As to (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of Applicant's representative.

As mentioned above, it is respectfully asserted that the physical file for the subject application was inadvertently and unintentionally discarded during the shutting down of undersigned's office space in the period of time of January and February 2006. Upon discovering that a number of files became missing, the undersigned immediately attempted to locate and retrieve the files by consulting with the office space maintenance personnel and searching the dumpster location, but to no avail. With the lack of a physical file for the subject application for reference, a change of correspondence address was not filed in the application until October 15, 2008.

In view of the foregoing, it is respectfully submitted that the entire delay in filing the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b) filed one week later on October 15, 2008, was unintentional.

Conclusion

It is respectfully submitted that all of the requirements for a grantable petition under 37 C.F.R. § 1.137(b) have been met and satisfied. Consideration of this RENEWED PETITION by the Director and revival of the application are respectfully requested.

If further information is required, the Director is respectfully invited to contact the undersigned.

Respectfully submitted,



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Dated: June 22, 2009

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